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Editors Favor Exemption From Espionage Laws

Association to File Friend-of-the-Court Brief in Review of Naval Analyst's Conviction

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The American Society of Newspaper Editors has decided to support court review of the conviction last fall of former naval intelligence analyst Samuel Loring Morison in hopes of winning a ruling that espionage laws do not apply to the news media.

The 20-member ASNE board voted unanimously to file a friend-of-the-court brief as it wound up its convention here last month. ASNE general counsel Richard M. Schmidt Jr. said the action came on the recommendation of the organization's freedom of information committee.

Morison, the grandson of the late famed naval historian Samuel Eliot Morison, was found guilty by a federal jury in Baltimore of espionage and theft for leaking three "secret" U.S. spy satellite photos to a British

magazine. He was the first person convicted of a crime for leaking classified information to the news media.

The magazine, Jane's Defence Weekly, was not charged in the case, but under the government theory of prosecution used in the trial, news organizations that received such leaks could also be indicted and prosecuted under the same laws.

Justice Department officials have refused to rule out such a possibility.

The board of the American Newspaper Publishers Association, which won a 1950 amendment to the espionage laws designed to protect the press, has also decided to file a friend-of-the-court brief.

ANPA may file with ASNE and other media groups.

Lawyers for Morison, who was sentenced to two years in prison but is free on appeal bond, said they

were pleased by the actions. The case is pending before the 4th Circuit Court of Appeals in Richmond.

"For reasons I don't completely understand, I guess this has been a difficult decision for the press groups, but I'm glad they're coming around," Morison attorney Mark Lynch said.

"Once you let the genie out of the bottle and apply the [espionage] statute to leaks, there is nothing on its face to prevent it from being used against the reporter as well as the leaker," he added.

ASNE's Schmidt said, "What we want to clarify is that the espionage laws, as used in the Morison case or any other case of that kind, do not apply to the press . . . There's no case law on that, but there is legislative history."

Schmidt was referring to a provision drafted by the late ANPA general counsel Elisha Hanson and sponsored by the late senator Pat McCarran (D-Nev.) when Congress last revised the espionage laws in the form of the Internal Security Act of 1950.

The enacted amendment states: "Nothing in this act shall be construed to authorize, require or establish military or civilian censorship or in any way to limit or infringe upon freedom of the press or of speech as guaranteed by the Constitution of the United States and no regulation shall be promulgated hereunder having that effect."